

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

02/28/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a new information collection received on 02/11/2005.

TITLE: Crab Economic Data Reports (EDRs)

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0518

EXPIRATION DATE: 02/29/2008

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	0	0	0
New	291	5,429	3
Difference	291	5,429	3
Program Change		5,429	3
Adjustment		0	0

TERMS OF CLEARANCE:

This approval is associated with the final rule published under RIN 0648-AS47. The agency is instructed to conduct a focused outreach campaign prior to submission of a request for extension for this ICR to validate burden estimates and elicit suggestions from the regulated community for reducing the burden of this program. The results of this campaign must be summarized in the submission.

OMB Authorizing Official	Title
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Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs
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PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated 5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No 6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) (<i>if applicable</i>)	
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT
SPECIAL SUBSISTENCE PERMITS AND HARVEST LOGS FOR
PACIFIC HALIBUT IN WATERS OFF ALASKA**

INTRODUCTION

Management of the Pacific halibut (hereafter halibut) fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled the “Convention between United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea” (Convention), was signed at Ottawa, Canada on March 2, 1953, and amended by the “Protocol Amending the Convention,” signed at Washington, D.C., March 29, 1979. This Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Halibut Act. The North Pacific Fisheries Management Council (Council) adopted a subsistence halibut policy in October 2000 under the authority of the Halibut Act.

A final rule issued at 68 FR 18145 and codified in 50 CFR part 300-Subpart E authorized a subsistence fishery for halibut in Convention waters off Alaska. Halibut subsistence fishery is intended to allow eligible persons to practice the long-term customary and traditional harvest of Pacific halibut for food in a non-commercial manner (see also OMB No. 0648-0460, halibut subsistence registration).

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This statement supports a new collection of information for special permits issued to participants in the Pacific halibut subsistence fishery in waters off the coast of Alaska and any appeals resulting from denials. Subsistence fishing for halibut has occurred for many years among the Alaska Native people and non-Native people. The Subsistence Halibut Registration Certificate (SHARC) process (see OMB No. 0648-0460) identifies those persons who are currently doing subsistence halibut fishing.

Special permits in this collection-of-information are initiated in response to the concerns of native and community groups regarding increased restrictions in IPHC Area 2C and include Community Harvest Permits (CHP), Ceremonial Permits, and Educational Permits. NMFS designed the specialized permits as vessel-oriented permits which allow eligible persons to harvest subsistence halibut under reduced gear and harvest restrictions provided the permit is maintained on board during fishing. Specialized permits require persons fishing under them to also possess a SHARC (see OMB No. 0648-0460), except that enrolled students fishing under a valid Educational Permit may fish without a SHARC. Furthermore, NMFS designed the permits to work in conjunction with other halibut harvest assessment measures. Each of the proposed instruments is designed to

minimize the reporting burden on subsistence halibut fishermen while retrieving essential information.

NMFS would confirm the eligibility of registration applicants based on the information provided on an application form. If eligible, the applicant would receive the specialized permit for which he/she applied. Compliance with the registration and reporting system for all specialized permits is required.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

a. Subsistence Halibut Special Permits Application.

CHPs may be issued to Alaska Native tribes, or to eligible rural communities in the absence of a tribe, provided the tribe or community is listed in § 300.65(f)(1) or (f)(2). The CHP Program allows an eligible tribe or community to select individual harvesters who may possess particular expertise in halibut fishing to harvest halibut on behalf of the community or tribe under reduced gear and harvest restrictions. In IPHC Area 2C, 19 Alaska Native tribes would be eligible to receive a CHP to harvest subsistence halibut. An additional 14 rural communities in Area 2C also would be eligible to receive a CHP because these communities do not contain an eligible Alaska Native tribe. Hence, the maximum number of CHPs that could be issued in any one year in Area 2C would be 33 (19+14).

NMFS will issue a laminated CHP permit card and a harvest log to the tribe or community for each approved registration application. The tribe or community must designate a coordinator as part of the registration process. An eligible community or tribe may possess only one CHP at any given time and the CHP expires 1 year from the date of issuance. Renewal of the CHP is the responsibility of the tribe or community.

It is the responsibility of the CHP coordinator to issue the laminated CHP permit card to an eligible fisherman. The fisherman must have the CHP permit card as well as his/her SHARC on his/her person when fishing under the CHP.

Ceremonial and Educational Permits would be issued exclusively to Alaska Native tribes. The Ceremonial and Educational Permits do not reduce the gear restrictions beyond the 30 hook per vessel gear restrictions, but do allow a harvest of 25 halibut per permit. Ceremonial and Educational Permits consist of a laminated permit card and a permit log issued by NMFS. Both permits expire 30 days from their date of issuance; the permits must be returned on or before the expiration date regardless of whether halibut were harvested using the permit.

Eligible tribal members may apply for additional permits as necessary and may possess multiple permits at any given time. Like the CHP, NMFS requires compulsory reporting

subject to revocation for Ceremonial and Educational Permits because of the liberal harvest restrictions and the subsequent potential for abuse.

A tribe may request and possess multiple Ceremonial Permits at any time. These permits will be available to 19 tribes in Area 2C and 19 tribes in Area 3A, for a total of 38 tribes. Estimating 5 ceremonial permits per tribe would result in 190 permits per year. However, without analyzing all the cultural events and the average occurrences of potlatches (a tribal celebration to which most participants bring food to be shared), an accurate estimate is difficult to foresee.

An estimated number of Educational Permits is slightly easier to predict. These permits are available to the same 38 tribes in Areas 2C and 3A. However, currently only 2 educational camps might qualify, one in 2C and one in 3A. One permit would cover the educational camp for a year. The educational program must be well-organized and well-established under the regulations at 50 CFR part 300. It is considered unlikely that every tribe will want/need/qualify for an educational program. Based on the 30-day expiration date and the frequency of culture camp sessions, an estimated 5 permits per year would be issued initially.

Subsistence Halibut Special Permits Application

Block A. Type of subsistence halibut special permit requested

Whether application is for a community harvest permit, ceremonial permit, or educational permit

Whether application is for a new permit or a renewal of an existing permit. If a renewal, enter permit number

Complete information for only one type of permit

Block B. Subsistence Halibut Community Harvest Permit

Name of Alaska Native tribe or community

Name, address, and daytime telephone number of a CHP Coordinator

Must attach any previously issued CHP harvest logs

Block C. Subsistence Halibut Ceremonial Permit

Name of Alaska Native tribe

Name, address, and daytime telephone number of a Ceremonial Halibut Permit Coordinator

Describe occasion of cultural or ceremonial significance

Must attach any previously issued ceremonial permit harvest logs from any expired ceremonial permit

Block D. Subsistence Halibut Education Permit

Name of Alaska Native tribe or community

Name, address, and daytime telephone number of Education Permit Coordinator

Name, address, and daytime telephone number of a Educational Institution or Organization

Course description

Demonstrate enrollment of qualified students

Describe minimum attendance requirements

Describe standards for the successful completion of the educational program

Describe standards for successful completion of the course

Must attach any previously issued educational permit harvest logs from any expired educational permit

Subsistence halibut special permit application, Respondent	
Total respondents	109
CHP permits (33 tribes)	
Ceremonial permits (38 tribes)	
Educational permits (38 tribes)	
Number responses per year	11
CHP permits (1 per tribe)	
Ceremonial permits (5 per tribe)	
Educational permits (5 for all tribes)	
Total annual responses	228
CHP permits (33 x 1 = 33)	
Ceremonial permits (38 x 5 = 190)	
Educational permits, all tribes (5)	
Estimated response time (10 min/60 min)	0.17
Total annual time burden hours (0.17 x 228 = 38.76)	39hr
Total personnel cost (39 x \$25)	\$975
Total miscellaneous cost	\$726
Postage to mail application (114 x 0.37=\$42.18)	
Cost to FAX application (114 x \$6=\$684)	
Subsistence halibut special permit application, Federal government	
Total annual responses	228
Estimated response time (10 min/60 min)	0.17
Total annual time burden hours (0.17 x 228 = 38.76)	39hr
Total personnel cost (39 x \$25)	\$726

b. Community Harvest Permit (CHP) Log.

The CHP Coordinator maintains possession of the CHP log at all times and issues the CHP permit card to an eligible subsistence fisherman. The eligible subsistence fisherman returns the CHP permit card and reports his or her catch to the CHP Coordinator upon completion of subsistence fishing under the permit. The CHP Coordinator records this harvest information in a CHP log. The CHP Coordinator returns to NMFS the CHP permit card and CHP log together upon expiration. Failure to return a CHP log could result in revocation of harvest privileges under the CHP program.

CHP Harvest Log

Name of Community Harvest Permit Coordinator

Subsistence Fisher Identification

Name of fisher

Community of residence

Date of birth

Tribal affiliation

SHARC number

Indicate YES or NO whether fisher did subsistence halibut fishing during the period on permit

If YES, complete the following harvest information

Date of harvest

Local water body, bay or sound

IPHC Regulatory Area

Number and Pounds of Halibut

Type of gear used

Number of hooks set
 Number of incidental lingcod caught
 Number of incidental rockfish caught

Subsistence halibut community harvest log, Respondent	
Total respondents	33
Responses per year	1
Total annual responses	33
Estimated response time to complete log (30 min/60 min)	0.5 hr
Total annual time burden hours (0.5 x 33 = 16.5)	17 hr
Total personnel cost (17 x \$25)	\$425
Total miscellaneous cost	\$12
Postage to mail log (33 x 0.37=12.21)	

Subsistence halibut community harvest log, Federal Government	
Total annual responses	33
Estimated response time to complete application (30 min/60 min)	0.5 hr
Total annual time burden hours (0.5 x 33 = 16.5)	17 hr
Total personnel cost (17 x \$25)	\$425

c. Subsistence Ceremonial or Educational Permit Harvest Log

Ceremonial and Educational Permits are available exclusively to Alaska Native tribes. Ceremonial and Educational Permits consist of a laminated permit card and a harvest log. Either permit expires 30 days from its date of issuance and must be returned within 15 days following its expiration regardless of whether halibut were harvested using the permit. Eligible tribes may apply for additional permits as necessary and may possess multiple permits at any given time

Additional application criteria for the Educational Permits ensures that only legitimate educational programs receive the permits. To ensure consistent data quality and proper use of the permit, eligible Alaska Native tribes are limited to only one Ceremonial Permit Coordinator per tribe, and educational programs are limited to only one authorized instructor per program. The Ceremonial Permit coordinator appointment process should be established independently by each Alaska native tribe.

Subsistence Ceremonial or Educational Permit Harvest Log

Name of Ceremonial Permit Coordinator or Educational Permit Instructor

Subsistence Fisher Identification

Name of fisher or student

Daytime telephone number and mailing address (number and street, city and state, zip code)

Community of residence

Date of birth

Tribal affiliation

SHARC number (students do not need a SHARC)

Indicate YES or NO whether fisher did subsistence halibut fishing during the period on permit

If YES, complete the following harvest information

Date of harvest

Local water body, bay or sound

IPHC Regulatory Area

Number and weight (in pounds) of halibut

Type of gear used
 Number of hooks set
 Number of incidental lingcod caught
 Number of incidental rockfish caught

Subsistence halibut ceremonial or educational harvest log, Respondent	
Total respondents	76
Responses per year	2
Total annual responses	152
Estimated response time to complete application (30 min/60 min)	0.5
Total annual time burden hours (152 x 0.5)	76 hr
Total personnel cost (76 x \$25)	\$1,900
Total miscellaneous cost	\$242
Postage to mail log (38 x 0.37=\$14.06)	
Fax log (38 x \$6=\$228)	

Subsistence halibut ceremonial harvest log, Federal Government	
Total annual responses	152
Estimated response time to process application (30 min/60 min)	0.5
Total annual time burden hours (152 x 0.5)	76 hr
Total personnel cost (76 x \$25)	\$1,900

c. Appeals Process.

NMFS provides an appeals process to provide administrative due process to those whose applications for a CHP, Ceremonial Permit, or Educational Permit are denied and to those whose permit is subject to revocation.

In every instance in which an administrative determination is made to deny an application or to revoke a permit, NMFS issues formal Initial Administrative Decision (IAD) to the affected applicant or permit holder). If dissatisfied with the determination, the applicant may appeal to the NMFS Alaska Region Office of Administrative Appeals (OAA) under 50 CFR part 679.43. For permit appeals, the participant must provide a written statement in support of the appeal and must show why the initial determination should be reversed. If the participant does not appeal within 60 days following the issuance of the IAD, the IAD becomes a Final Agency Determination. A decision by the OAA becomes a Final Agency Action 30 days after it is issued, unless the Regional Administrator determines otherwise.

Subsistence halibut special permit appeal, Respondent	
Total respondents	2
Responses per respondent	1
Total annual responses	2
Estimated response time to complete appeal	4 hr
Total annual time burden hours (2 x 4)	8 hr
Total personnel cost (2 x \$25)	\$50
Total miscellaneous cost	\$3
Postage to mail appeal (2 x \$1.48 = \$2.96)	

Subsistence halibut special permit appeal, Federal government	
Total annual responses	2
Estimated response time to process each appeal	25 hr
Total annual time burden hours (2 x 25)	50 hr
Total personnel cost (50 x \$25)	\$1,250

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The permit application and logs will be available on the Alaska Region home page to allow the public to complete the form on-screen and print the form. Paper applications may be submitted by mail or by FAX. The permit applications may be submitted as a list of multiple individuals from an Alaska Native tribe. Electronic submittal of responses will be accepted as an attachment to an e-mail. NMFS plans to provide on-line data entry in the near future.

4. Describe efforts to identify duplication.

No duplication exists with other information collections at NMFS Alaska Region.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection-of-information affects small entities in the form of small government entities, but does not impose a significant impact. The Alaska tribes will coordinate this program

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Without the halibut subsistence community harvest, ceremonial, or educational programs, persons who have customary and traditional use of halibut for food may not be able to continue that practice.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No special circumstances exist that would require information collection to be conducted in a manner inconsistent with OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The attached proposed rule was published July 9, 2004 (69 FR 41447) to solicit public comment for the halibut subsistence special permits and harvest logs.

The following persons were consulted to obtain comments on the registration of subsistence participants.

Bubba Cook
NOAA/NMFS Alaska Region
Juneau, Alaska 99802

Jessica Gharrett
NOAA/NMFS Alaska Region
Juneau, Alaska 99802

Dr. James Fall, State of Alaska
ADF&G Division of Subsistence
Anchorage, Alaska

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift is provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

This information is used to monitor the subsistence halibut program under the Northern Pacific Halibut Act of 1982. Responses to this information request are not confidential.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No issues of a sensitive nature exist under this program.

12. Provide an estimate in hours of the burden of the collection of information.

The estimated total annual respondents for this program are 109. The estimated total responses for this program are 415. The estimated total annual burden hours for this program are 140. The personnel cost \$25 per hour is based on the average wage equivalent to a GS-7 employee in Alaska, including COLA. Total estimated personnel cost is \$3,350.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The estimated total annual miscellaneous costs are \$983.

14. Provide estimates of annualized cost to the Federal government.

The estimated total annual respondents for this program are 109. The estimated total responses for this program are 415. The estimated total annual burden hours for this program are 182.

The personnel cost \$25 per hour is based on the average wage equivalent to a GS-7 employee in Alaska, including COLA. Total estimated personnel cost is \$4,301.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

This is a new program.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Information obtained through registration to issue Halibut Subsistence Community Harvest Permits, Ceremonial Permits, and Educational Permits is posted on the NMFS Alaska Region at <http://www.fakr.noaa.gov/ram/subsistence/halibut.htm#SHARC>. The information is posted in lists sorted by holder, by eligible tribe, and by eligible community. In addition, a summary by date of the special permits issued to rural and tribal applicants is posted. No statistical sampling of the information is planned.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

In accordance with OMB requirements, the control number and the expiration date of OMB approval are shown on the application form and harvest logs.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

This information collection does not request exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.



Subsistence Halibut Special Permits Application

U.S. Dept of Commerce/NOAA
National Marine Fisheries Service
Restricted Access Management
P.O. Box 21668
Juneau, Alaska 99802-1668
Telephone: 1-800-304-4846
FAX: 907-586-7354



Block A - Type of Subsistence Halibut Special Permit Requested

Please indicate the type of permit for which you are applying (please mark only one):

☐ Community Harvest Permit ☐ Ceremonial Permit ☐ Educational Permit

Are you applying for a new permit or a renewal of an existing permit? ☐ New ☐ Renewal

If a Renewal, enter permit number

Block B - Subsistence Halibut Community Harvest Permit

1. Name of Alaska Native tribe or community

2. Community Halibut Permit Coordinator

Name (First, Middle, Last)

Mailing Address (Number, Street, City, State, Zip Code)

Daytime Telephone Number

Block C - Subsistence Halibut Ceremonial Permit

1. Name of Alaska Native tribe or community

2. Ceremonial Halibut Permit Coordinator

Name (First, Middle, Last)

Mailing Address (Number, Street, City, State, Zip Code)

Daytime Telephone Number

3. Describe occasion of cultural or ceremonial significance

Block D - Subsistence Halibut Education Permit

1. Name of Alaska Native Tribe

2. Educational Halibut Permit Instructor

Name (First, Middle, Last)

Daytime Telephone Number

Mailing Address (Number, Street, City, State, Zip Code)

3. Educational Institution or Organization

Mailing Address (Number, Street, City, State, Zip Code)

Daytime Telephone Number

4. Course Description (add extra sheet if necessary)

5. Demonstrate enrollment of qualified students

6. Describe minimum attendance requirements

7. Describe standards for the successful completion of the educational program

8. Describe standards for successful completion of the course

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form please note the following: 1) The NMFS may not conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) This information is being used to implement the Alaska Subsistence Halibut Program; 3) Federal law and regulations require and authorize NMFS to manage subsistence halibut programs in Alaska; 4) Submission of this information is mandatory for any tribe participating in subsistence fishing for Pacific halibut under the Ceremonial or Educational Permit Programs; 5) This information is used to monitor the subsistence halibut program under the Northern Pacific Halibut Act of 1982; 6) Responses to this information request are not confidential.

7/16/2004

OMB No. 0648-xxxx, Expiration date
xx/xx/xx



INSTRUCTIONS
Subsistence Halibut
Special Permits Application

The Halibut Subsistence Fishery is authorized by Federal regulations at 50 CFR Part 300 and provides for eligible persons to conduct subsistence halibut fishing in Convention waters off Alaska.

Subsistence halibut means halibut caught by a rural resident or a member of an Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or for customary trade.

Alaska Native Tribe means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a federally recognized Alaska Native tribe that has customary and traditional use of halibut.

Block A - Type of Subsistence Halibut Special Permit Requested

Please indicate the type of permit for which you are applying (please mark only one): Community Harvest Permit,
Ceremonial Permit, or
Educational Permit.

Indicate whether you are applying for a new permit or a renewal of an existing permit.

If a Renewal, enter permit number

Block B - Subsistence Halibut Community Harvest Permit

1. Name of Alaska Native tribe or community
2. Community Halibut Permit Coordinator
Name (First, Middle, Last)
Mailing Address (Number, Street, City, State, Zip Code)
Daytime Telephone Number

Block C - Subsistence Halibut Ceremonial Permit

1. Name of Alaska Native tribe or community
2. Ceremonial Halibut Permit Coordinator

Name (First, Middle, Last)
Mailing Address (Number, Street, City, State, Zip Code)
Daytime Telephone Number

3. Describe occasion of cultural or ceremonial significance

Block D - Subsistence Halibut Education Permit

1. Name of Alaska Native Tribe
2. Educational Halibut Permit Instructor
Name (First, Middle, Last)
Daytime Telephone Number
Mailing Address (Number, Street, City, State, Zip Code)
3. Educational Institution or Organization
Mailing Address (Number, Street, City, State, Zip Code)
Daytime Telephone Number
4. Course Description (add extra sheet if necessary)
5. Demonstrate enrollment of qualified students
6. Describe minimum attendance requirements
7. Describe standards for the successful completion of the educational program
8. Describe standards for successful completion of the course

Mail application to:

Restricted Access Management
NMFS, Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

If you have questions, call: 1-800-304-4846 or FAX: 907-586-7354.

Thank you! Please mail the completed log to:

Restricted Access Management
NMFS, Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

Questions?

Call 1-800-304-4846
Fax 907-586-7354

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668 (Attn: Lori Durall).

ADDITIONAL INFORMATION

Before completing this form please note the following: 1) The NMFS may not conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) This information is being used to implement the Alaska Subsistence Halibut Program; 3) Federal law and regulations require and authorize NMFS to manage subsistence halibut programs in Alaska; 4) Submission of this information is mandatory for any tribe or community participating in directed fishing for Pacific halibut under the Ceremonial or Educational Permit Program; 5) This information is used to monitor the subsistence halibut program under the Northern Pacific Halibut Act of 1982; 6) Responses to this information request are not confidential.

Instructions for Completing the
SUBSISTENCE HALIBUT
CEREMONIAL OR EDUCATIONAL HARVEST PERMIT (CPEP) LOG

The Halibut Subsistence Fishery is authorized by Federal regulations at 50 CFR Part 300 and provides for eligible persons to conduct subsistence halibut fishing in Convention waters off Alaska.

Subsistence halibut means halibut caught by a rural resident or a member of an Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or for customary trade.

Alaska Native Tribe means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a federally recognized Alaska Native tribe that has customary and traditional use of halibut.

Ceremonial and Educational Permits are available exclusively to Alaska Native tribes. Ceremonial and Educational Permits consist of a laminated permit card and a harvest log issued by NMFS. Either permit expires 30 days from its date of issuance and must be returned within 15 days following its expiration regardless of whether halibut were harvested using the permit. However, eligible tribes may apply for additional permits as necessary and may possess multiple permits at any given time

1. Enter the name of the Educational Permit Instructor.
2. Enter the following information for each subsistence halibut fisherman:

Name of fisher. Enter full name (First, Middle, Last). Please include any suffixes such as Jr., Sr., etc.

Community of residence (city and state). This Community must be one of the rural communities listed in CFR 300.65(f)(1).

Date of birth (month/day/year).

Tribal affiliation. Enter the name of the Alaska Native Tribe qualifies the fisherman as eligible to fish for subsistence halibut. This tribe must be one of the Alaska Native Tribes listed in 50 CFR 300.65(f)(2).

SHARC number. Specialized permits require persons fishing under them to also possess a SHARC (see OMB No. 0648-0460), except that enrolled students fishing under a valid Educational Permit may fish without a Subsistence Halibut Registration Certificate (SHARC) number.

3. Indicate YES or NO whether fisher did subsistence halibut fishing during the period indicated on the special permit. If YES, complete the following harvest information

Date of harvest

Name of local water body, bay or sound. Record the location where the fisherman did most of the subsistence halibut fishing under this special permit.

IPHC Regulatory Area. Record the International Pacific Halibut Commission Regulatory Area (IPHC) that describes the location where the fisherman did the subsistence halibut fishing under this permit. These Regulatory Areas are listed in Figure 15 to 50 CFR part 679.

Number and pounds of halibut caught. Identify both the number and pounds of halibut harvested.

Type of gear used.

Number of hooks set.

Number of incidental lingcod and incidental rockfish caught. DO NOT include all the lingcod and rockfish you harvested, but just those you harvested while subsistence halibut fishing under this special permit. "Rockfish" means all fish of the genus Sebastes. These include red snapper and black bass. "Rockfish" does NOT include sculpin, greenling, or cod. Please do not include these other fish in your harvest estimates for rockfish.

Please mail the completed log to:

Restricted Access Management
NMFS, Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

If you have questions, call 1-800-304-4846 or Fax 907-586-7354.

Thank you! Please mail the completed log to:

Restricted Access Management
NMFS, Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

Questions?

Call 1-800-304-4846
Fax 907-586-7354

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ADDITIONAL INFORMATION

Before completing this form please note the following: 1) The NMFS may not conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) This information is being used to implement the Alaska Subsistence Halibut Program; 3) Federal law and regulations require and authorize NMFS to manage subsistence halibut programs in Alaska; 4) Submission of this information is mandatory for any tribe or community participating in directed fishing for Pacific halibut under the Community Harvest Permit Program; 5) This information is used to monitor the subsistence halibut program under the Northern Pacific Halibut Act of 1982; 6) Responses to this information request are not confidential.

<p>Instructions for Completing the SUBSISTENCE HALIBUT COMMUNITY HARVEST PERMIT (CHP) LOG</p>

The Halibut Subsistence Fishery is authorized by Federal regulations at 50 CFR Part 300 and provides for eligible persons to conduct subsistence halibut fishing in Convention waters off Alaska.

Subsistence halibut means halibut caught by a rural resident or a member of an Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or for customary trade.

The Community Harvest Permit (CHP) Program allows an eligible tribe or community to select individual harvesters who may possess particular expertise in halibut fishing to harvest halibut on behalf of the community or tribe under reduced gear and harvest restrictions. NMFS will issue a laminated CHP permit card and a harvest log to the tribe or community for each approved registration application. The tribe or community must designate a coordinator as part of the registration process. An eligible community or tribe may possess only one CHP at any given time and the CHP expires 1 year from the date of issuance. Renewal of the CHP is the responsibility of the tribe or community.

Alaska Native Tribe means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a federally recognized Alaska Native tribe that has customary and traditional use of halibut.

It is the responsibility of the CHP coordinator to issue the laminated CHP permit card to an eligible fisherman. The fisherman must have the CHP permit card as well as his/her SHARC on his/her person when fishing under the CHP.

1. Enter the name of the CHP Coordinator.
2. Enter the following information for each subsistence halibut fisherman:

Name of fisher. Enter full name (First, Middle, Last). Please include any suffixes such as Jr., Sr., etc.

Community of residence (city and state). This Community must be one of the rural communities listed in CFR 300.65(f)(1).

Date of birth (month/day/year).

Tribal affiliation. Enter the name of the Alaska Native Tribe qualifies the fisherman as eligible to fish for subsistence halibut. This tribe must be one of the Alaska Native Tribes listed in 50 CFR 300.65(f)(2).

SHARC number. Enter the Subsistence Halibut Registration Certificate (SHARC) number of the fisherman.

3. Indicate YES or NO whether fisher did subsistence halibut fishing during the period indicated on the special permit. If YES, complete the following harvest information

Date of harvest

Name of local water body, bay or sound. Record the location where the fisherman did most of the subsistence halibut fishing under this special permit.

IPHC Regulatory Area. Record the International Pacific Halibut Commission Regulatory Area (IPHC) that describes the location where the fisherman did the subsistence halibut fishing under this permit. These Regulatory Areas are listed in Figure 15 to 50 CFR part 679.

Number and pounds of halibut caught. Identify both the number and pounds of halibut harvested.

Type of gear used.

Number of hooks set.

Number of incidental lingcod and incidental rockfish caught. DO NOT include all the lingcod and rockfish you harvested, but just those you harvested while subsistence halibut fishing under this special permit. "Rockfish" means all fish of the genus Sebastes. These include red snapper and black bass. "Rockfish" does NOT include sculpin, greenling, or cod. Please do not include these other fish in your harvest estimates for rockfish.

Please mail the completed log to:

Restricted Access Management
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P.O. Box 21668
Juneau, AK 99802-1668

If you have questions, call 1-800-304-4846 or Fax 907-586-7354.

16 - CONSERVATION

CHAPTER 10 - NORTHERN PACIFIC HALIBUT FISHING

SUBCHAPTER IV - NORTHERN PACIFIC HALIBUT ACT OF 1982

773c. General responsibility

-STATUTE-

(a) Secretary of Commerce

The Secretary shall have general responsibility to carry out the Convention and this subchapter.

(b) Adoption of regulations; cooperation with Canadian officials

In fulfilling this responsibility, the Secretary -

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this subchapter; and

(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the Government of Canada.

(c) Regional Fishery Management Council involvement

The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 1853(b)(6) of this title. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges: Provided, That the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish *a* commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during *a* 3 year development period.

S. Code

(Pub. L. 97-176, Sec. 5, May 17, 1982, 96 Stat. 79; Pub. L. 104-208, div. A, title I, Sec. 101(a) (title II, Sec. 211(b)), Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

AMENDMENTS

1996 - Subsec. (c). Pub. L. 104-208 made technical amendment to reference in original act, which appears in text as reference to section 1853(b)(6) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) (title II, Sec. 211(b)) of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

Magnuson-Stevens Fishery Conservation and Management Act Public Law 94-265

As amended through October 11, 1996

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853 95-354, 99-659, 101-627, 104-297

(a) REQUIRED PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast

Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures

which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States

engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.--Proposed regulations which the Council deems necessary or appropriate for the purposes of--

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

FOR FURTHER INFORMATION CONTACT:

Aleria Jensen, Fishery Biologist, Office of Protected Resources, NMFS, at (301) 713-2322; Pat Gerrior, Fishery Biologist, Northeast Regional Office, NMFS, at (508) 495-2264; or Barb Zoodsma, Fishery Biologist, Southeast Regional Office, NMFS, at (904) 321-2806.

SUPPLEMENTARY INFORMATION:

This document provides additional opportunity for public involvement in the development and implementation of a strategy to address the lack of recovery of the endangered North Atlantic right whale by reducing the likelihood and threat of ship strike mortalities to the species. The strategy is described in greater detail in the ANPR published June 1, 2004 (69 FR 30857). In summary, it is a multi-faceted plan that includes potential routing changes, speed reductions, and the use of dynamic management areas as proposed operational measures. In association with the comment period on the ANPR, NMFS is holding five public meetings to present the strategy and solicit information on the development and implementation of the proposed new operational measures. In addition, the agency intends to convene a series of smaller focal group meetings through its regional Right Whale Recovery Implementation Teams to discuss specific stakeholder questions and concerns. Comments received during the ANPR comment period and in associated meetings will assist the agency in subsequent rulemaking decisions about using this methodology to reduce the threat of ship collisions to right whales.

Schedule of Public Scoping Meetings

The dates, times, and locations of the meetings are scheduled as follows:

1. Tuesday, July 20, 2004, 3 to 6 p.m.
Tip O'Neill Federal Building, Rm 335
A & B, 10 Causeway Street, Boston, MA 02222.
2. Wednesday, July 21, 2004, 3 to 6 p.m.
Jersey City-Newport Courtyard
Marriot, 540 Washington Blvd, Jersey City, NJ 07310.
3. Monday, July 26, 2004, 3 to 6 p.m.
Hilton Riverside Wilmington, 301 N. Water Street, Wilmington, NC 28401.
4. Tuesday, July 27, 2004, 3 to 6 p.m.
Radisson Riverwalk Hotel, 1515 Prudential Drive, Jacksonville, FL 32207-8133.
5. Tuesday, August 3, 2004, 3 to 6 p.m.
NOAA Headquarters Science Center, 1315 East West Highway, Silver Spring, MD 20910.

NMFS is also extending the comment period on the ANPR through September 15, 2004, to include public input at the public meetings and to give the public

time to comment after attending the meetings.

Special Accommodations

These meetings are physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Aleria Jensen at 301-713-2322.

Laurie K. Allen,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 04-15612 Filed 7-8-04; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 300 and 679**

[Docket No. 040607171-4171-01; I.D. 051804C]

RIN 0648-AR88

Pacific Halibut Fisheries; Subsistence Fishing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to amend the subsistence fishery rules for Pacific halibut in waters off Alaska. These regulations are necessary to address subsistence halibut management concerns in densely populated areas. This action is intended to be consistent with the conservation and management provisions of the Northern Pacific Halibut Act of 1982 (Halibut Act) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received no later than August 9, 2004.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- FAX: 907-586-7557.
- E-mail: SUBH-0648-AR88@noaa.gov. Include in the subject line of the e-mail the following document identifier: Subsistence

Halibut RIN 0648-AR88. E-mail comments, with or without attachments, are limited to 5 megabytes.

• Webform at the Federal eRulemaking Portal: www.regulations.gov. Follow the instructions at that site for submitting comments.

Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: NOAA Desk Officer).

Copies of the categorical exclusion (CE) and regulatory impact review (RIR) prepared for this action and the environmental assessment (EA) prepared for the original subsistence halibut action (68 FR 18145, April 15, 2003) are available from NMFS at the above address or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907-586-7228.

FOR FURTHER INFORMATION CONTACT:

Bubba Cook, 907-586-7425 or bubba.cook@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background and Need for Action**

Management of the Pacific halibut (hereafter halibut) fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled the "Convention Between United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" (Convention), was signed at Ottawa, Canada on March 2, 1953, and amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. The Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Halibut Act.

Generally, the IPHC develops fishery management regulations governing the halibut fisheries and makes recommendations to the U.S. Secretary of State. When approved, NMFS publishes these regulations in the **Federal Register** as annual management measures. NMFS published the current annual management measures March 7, 2003 (68 FR 10989).

The Halibut Act also provides for the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations, including limited access regulations, in its geographic area of concern that would apply to nationals or vessels of the U.S. (Halibut Act, section 773(c)). Such an action by the Council is limited only to those regulations that are in addition to and

not in conflict with IPHC regulations, and they must be approved and implemented by the U.S. Secretary of Commerce (Secretary). Any allocation of halibut fishing privileges must be fair and equitable and consistent with other applicable Federal law. The Council adopted a subsistence halibut policy in October 2000 to recommend to the Secretary under the authority of the Halibut Act.

The Council does not have a "fishery management plan" (FMP) for the halibut fishery. Hence, halibut fishery management regulations developed by the Council do not follow the FMP or FMP amendment procedures set out in the Magnuson-Stevens Act. Instead, the Council follows a process that requires submission of the Council recommendation to the Secretary as a draft proposed rule for publication in the **Federal Register** along with supporting analyses as required by other applicable law.

The Secretary approved the Council's recommended subsistence halibut policy and published implementing regulations on March 7, 2003, at 68 FR 18145, and codified in 50 CFR 300—Subpart E, authorizing a subsistence fishery for halibut in Convention waters off Alaska. Previously, in an October 2000 action, the Council had incorporated a request to the State of Alaska Board of Fisheries (Board) to review the Council action on subsistence halibut during the Board's normal 2000–2001 cycle and present recommendations to the Council in June 2001. The Board complied with this request, and at that Council meeting, recommended specific restrictions on subsistence gear and harvest limits designed to address localized depletion concerns regarding halibut, rockfish, and lingcod in densely populated and easily accessible areas. In April 2002, the Council unanimously adopted modifications to its original (i.e., October 2000) action to address concerns identified by the Board about the potential local effects of subsistence halibut fishing on halibut and rockfish populations.

Additionally in April 2002, the Council adopted a preferred alternative addressing several cultural and management concerns among the IPHC areas. In areas 4C, 4D, and 4E, the Council proposed the elimination of gear restrictions to correspond with the lack of harvest restrictions. In all other areas, the Council proposed limiting the number of hooks to 3 times the per person hook limit, which in most areas would be 90 hooks. In several subareas within areas 3A and 2C the Council proposed further gear restrictions to

address localized depletion and bycatch concerns, reducing the gear limits to as little as 10 hooks and harvest limits to as little as 5 halibut per day. The Council recommended that no proxy system be allowed in any area, but proposed the development of Community Harvest Permits as a mitigation measure. The Council also recommended the creation of Ceremonial and Educational Permits to address cultural concerns.

In October 2003, the Council revisited its previous decision and opted to postpone consideration of some increased restrictions until the completion of the Subsistence Halibut Survey in April 2004. The Council took final action in October 2003, however, on the remainder of the recommended provisions contained in its April 2002 action. Further information on alternatives considered and rejected can be found in the RIR for this action (see **ADDRESSES**).

Specific Elements of the Halibut Subsistence Fishery

Authorized Areas for Subsistence Halibut Harvest

Generally, eligible persons may harvest subsistence halibut in all Convention waters in and off Alaska except for areas designated as one of the four non-subsistence areas. These areas include the Ketchikan non-subsistence area, the Juneau non-subsistence area, the Anchorage/Matsu/Kenai non-subsistence area, and the Valdez non-subsistence area (see Figures 2–5 to Subpart E). In October 2003, the Council reaffirmed its April 2002 recommendation extending the southern boundary of the Anchorage/Matsu/Kenai non-subsistence area to a line extending across the entirety of Cook Inlet along latitude 59°30.40' N based on the Board's concerns. Consequently, subsistence harvest of halibut would be prohibited in all areas of Cook Inlet north of this boundary (see revised Figure 4 to Subpart E of this proposed rule). The proposed expansion of the Anchorage/Matsu/Kenai non-subsistence area would increase the prohibited area by approximately 1146 square nautical miles or 28.6 percent. The Council took this action to address localized depletion concerns. Increased fishing pressure is expected in this area due to its easy access on the road system.

Legal Gear For Harvesting Subsistence Halibut

The Council recommended eliminating gear restrictions in Areas 4C, 4D, and 4E. The elimination of gear

restrictions in these Bering Sea areas is proposed to correspond with the absence of harvest restrictions in those areas. The Council based its decision to relax gear and harvest restrictions on three reasons. First, the annual time period available for subsistence halibut fishing in Areas 4C, 4D, and 4E is reduced because of sea ice coverage. Second, once the sea ice has melted, the potential to fish for subsistence halibut is further reduced because of frequent rough seas and inclement weather. Third, existing regulations impose no daily harvest limit in Areas 4C, 4D, and 4E, so a gear limit without a harvest limit did not make sense.

In other areas the Council recommended increased restrictions. In Areas 3A, 3B, 4A, and 4B, the Council reduced the allowable gear to no more than 3 times the number of hooks on a single unit of gear per trip, provided that a sufficient number of subsistence users are on board the vessel. NMFS interprets the Council's recommendation as a per-person, per-vessel hook limit, which would reduce allowable gear to no more than 90 hooks per vessel on gear set or retrieved during subsistence halibut fishing, provided at least three individual registered subsistence fishers are on board the vessel. In other words, if one registered fisher is on board the vessel, the maximum number of hooks on the gear set or retrieved in the course of fishing would be 30. If two registered fishers are on board, the maximum number of hooks on gear set or retrieved in the course of fishing would be 60. If three or more registered fishers are on board, the maximum number of hooks on gear set or retrieved in the course of fishing would be 90. At no time may the gear used to fish for subsistence halibut exceed 30 hooks per person or 90 hooks per vessel.

The Council recommended the most stringent restrictions in Area 2C primarily to address the perception that halibut fishing effort has increased within the area. The Council proposed superseding the 30-hook-per-person restriction with a 30-hook-per-vessel restriction. The per-vessel restrictions would apply in all of Area 2C. Additional restrictions were suggested for the Low Island area within Sitka Sound in an effort to address gear conflicts among individual user groups. The Council recommended implementing a subsistence longline closure area south of Low Island in waters traditionally used by handline and rod-and-reel fishermen (see revised Figure 1 to Subpart E of this proposed rule).

In response to the concerns of Alaska Native and community groups regarding increased restrictions in Area 2C, the Council recommended a Community Harvest Permit (CHP) Program to mitigate those increased restrictions. The CHP Program allows a community or Alaska Native tribe to select individual harvesters who may possess particular expertise in halibut fishing to harvest halibut on behalf of the community or Alaska Native tribe. Using a CHP in Area 2C would allow the use of the gear restriction described above for Areas 3A, 3B, 4A, and 4B (30 hooks per person up to a maximum of 90 hooks per vessel). Also, a Ceremonial and Educational Permit Program was recommended in Areas 2C and 3A to recognize cultural uses of halibut. Ceremonial and Educational permits maintain the same gear limitations as those required when fishing under a subsistence halibut registration certificate in Areas 2C and 3A (i.e. 30 hooks per vessel in Area 2C and 30 hooks per person or up to 90 hooks per vessel in Area 3A).

Daily Bag Limit

In general, the daily harvest (bag) limit for subsistence halibut outside of Areas 4C, 4D, and 4E, is up to 20 halibut per eligible subsistence fisherman. Existing regulations at § 300.66(h) prohibit mixing halibut harvested from subsistence fishing with halibut harvested from commercial fishing or from sport fishing, except that undersized halibut (i.e. fish less than 32 inches (81.3 cm) in length) may be retained with CDQ halibut in Areas 4D or 4E (§ 300.66(h)). The Council recommended expanding this exception to allow retention of legal size (i.e. 32 inches (81.3 cm) or longer) subsistence halibut along with CDQ halibut. The proposed exception for legal sized halibut would apply only to registered fishers who land their total annual halibut harvest in Areas 4C, 4D, and 4E. The Council allowed this exception to the prohibition of mixing halibut for the same reasons that the existing rule does not impose bag limits in these areas, i.e., limited days at sea and safety concerns.

The Council recommended additional harvest restrictions in Area 2C to correspond with increased gear restrictions. In Area 2C, harvest restrictions would change to 20 halibut per vessel instead of the 20 halibut per person allowed under current regulations (§ 300.65(g)). To mitigate the effects of the increased restrictions in Area 2C, the Council proposed more liberal harvest limits for Alaska Native tribes and communities under the CHP program. Under a CHP, a community or

Alaska Native tribe in Area 2C as listed in § 300.65(f)(1) and (f)(2) would be able to appoint up to three individuals to harvest an unlimited number of halibut subject to more stringent application and reporting requirements. Ceremonial and Educational Permits would allow Alaska Native tribes in Areas 2C and 3A as listed in § 300.65(f)(2) to harvest up to 25 halibut per permit. Ceremonial and Educational Permits also require more stringent application and reporting requirements. The 25-fish limit mirrors the harvest restrictions for a similar permit for salmon administered by the U.S. Fish and Wildlife Service.

Relationship to CDQ in Areas 4C, 4D, and 4E

Pacific halibut that are retained and counted against a CDQ allocation are sold and enter commerce. Such halibut do not include those retained for subsistence uses. Currently, CDQ fishermen may retain sublegal halibut in Areas 4D and 4E for subsistence purposes. Prior to the implementation of the current subsistence halibut policy, NMFS allowed the retention of sublegal halibut in Areas 4D and 4E based on the customary and traditional use of sublegal halibut in those areas and because the sublegal halibut are easily distinguishable from legal sized CDQ halibut. Fishermen in Areas 4D and 4E will continue to be able to retain sublegal halibut for subsistence based on their customary and traditional use of those fish. In addition, under this proposed rule, CDQ fishermen would be allowed to retain legal sized subsistence halibut along with their CDQ halibut in Areas 4C, 4D, and 4E if they are in possession of a subsistence halibut registration certificate. As described in the two previous sections, a reduced number of days at sea and safety concerns provide a justification for allowing CDQ fishermen in Areas 4C, 4D, and 4E to retain legal sized halibut for subsistence purposes.

In either case—sublegal or legal sized subsistence halibut—no regulatory need exists to distinguish those fish from CDQ halibut under the proposed regulation. Under existing regulations, halibut does not count against a CDQ allocation until the fish is sold to a processor. At any time before delivering halibut to a processor, a CDQ fisherman who possesses a subsistence halibut registration certificate may decide to keep one or more halibut for his subsistence use out of those fish he intends to sell and count against his CDQ allocation. Typically, subsistence halibut would be withheld prior to transfer of the remaining fish to the processor and, thus, subsistence halibut

would not count against a CDQ allocation. As long as a fisherman is in possession of a subsistence halibut registration certificate he may withhold subsistence halibut in this manner. Therefore, no need exists for a regulation stating that subsistence halibut will not count against a CDQ allocation. However, subsistence fishermen would continue to be reminded to not count their CDQ halibut on their annual subsistence halibut survey.

Additionally, because no regulatory need exists to distinguish between subsistence halibut and CDQ halibut for allocation purposes, no need exists to mark fish in any manner while on board the vessel for enforcement purposes. This proposed regulation would impose no harvest or gear restriction for subsistence halibut in Areas 4C, 4D, and 4E, therefore fishermen may use any setline gear, consistent with IPHC regulations, for halibut and may retain as many subsistence halibut on board as they need for subsistence purposes. Moreover, under this proposed regulation, subsistence and CDQ halibut may be retained together in any form consistent with current halibut regulations. Because a fisherman may decide to keep any number of halibut for his subsistence use, marking the fish to distinguish legal size subsistence and CDQ halibut on board a vessel in Areas 4C, 4D, and 4E would constitute a regulatory burden with no corresponding enforcement value.

Application and Reporting for Special Permits

The proposed regulations do not change the existing registration and reporting process for the individual subsistence halibut registration certificate. However, eligible Alaska Native tribes and communities would have to adhere to additional application and reporting requirements under the specialized permits which include Community Harvest Permits (CHP), Ceremonial Permits, and Educational Permits. These specialized permits, issued to specific communities or tribes, are proposed to relieve certain gear and harvest restrictions on persons fishing under them for subsistence halibut. These specialized permits must be on board the vessel while fishing is being conducted. Persons fishing under a specialized permit would be required to also possess a subsistence halibut registration certificate, except that enrolled students fishing under a valid Educational Permit may fish for subsistence halibut without a subsistence halibut registration certificate. Furthermore, the specialized

permits would require additional reporting for halibut harvest. The applications for the proposed specialized permits and additional reporting requirements would be designed to minimize the information collection burden on subsistence halibut fishermen while retrieving essential information. The tribe or community, permit coordinator, and harvester would be held jointly and severally liable for any violations of the regulations governing special permits.

The Restricted Access Management (RAM) Program Office of the Alaska Region, NMFS, would manage the application process for specialized permits. The RAM Program manager would confirm the eligibility of applicants based on the information provided on an application form. If eligible, the applicant would receive the specialized permit for which he or she applied. Compliance with the application and reporting system for all specialized permits would be required because of the liberal harvest requirements under the specialized permits.

CHPs may be issued to Alaska Native tribes, or to eligible rural communities in the absence of a tribe, provided the tribe or community is listed in § 300.65(f)(1) or (f)(2). The information collected in an application for a CHP would include the identity of the community or Alaska Native tribe, the identity of a CHP Coordinator, contact information for the CHP Coordinator, and any previously issued CHP harvest log. To ensure consistent data quality and proper use of the permit, eligible communities and Alaska Native tribes would be limited to only one CHP Coordinator per community or tribe. To allow for the unique nature of each community or tribe, each community or Alaska Native tribe should establish independently the CHP Coordinator appointment process. The CHP would consist of a laminated permit card and a harvest log issued by RAM. An eligible community or Alaska Native tribe may possess only one CHP at any time and the CHP would expire 1 year from the date of issuance.

The CHP Coordinator would maintain possession of the harvest log at all times

and issue the CHP permit card to eligible subsistence fishermen when necessary. The eligible subsistence fishermen would return the CHP permit card and report their catch to the CHP Coordinator upon completion of subsistence fishing under the permit. The CHP Coordinator would collect information regarding the halibut harvest in a harvest log. The CHP Coordinator would be required to return the CHP permit card and harvest log together upon expiration. Like any other permit, but distinct from the subsistence halibut registration certificate, a CHP would be a harvest privilege subject to the same limitations as other halibut permits or cards under 50 CFR 679.4(a).

Ceremonial and Educational Permits would be available exclusively to Alaska Native tribes. Ceremonial and Educational Permits would consist of a laminated permit card and a harvest log issued by RAM. Either permit would expire 30 days from its date of issuance and must be returned within 15 days following its expiration regardless of whether halibut were harvested using the permit. However, eligible tribes may apply for additional permits as necessary and may possess multiple permits at any given time. Like the CHP, Ceremonial and Educational Permits are a harvest privilege subject to the same limitations as other halibut permits or cards under 50 CFR 679.4(a).

The information collected in an application for a Ceremonial Permit would be minimized to identify the Alaska Native tribe requesting the permit, a Ceremonial Permit Coordinator, the Ceremonial Permit Coordinator's contact information, the occasion of cultural significance, and any previously issued Ceremonial Permit harvest log. An Educational Permit application would require the name and address of the educational institution or organization, the demonstration of enrollment of qualified students, minimum attendance requirements, standards for successful completion of the educational program, the affiliated Alaska Native tribe, the instructor, the instructor's contact information, and any previously issued Educational Permit harvest log. Additional application criteria for the

Educational Permits would ensure that only legitimate educational programs receive the permits. To ensure consistent data quality and proper use of the permit, eligible Alaska Native tribes would be limited to only one Ceremonial Permit Coordinator per tribe and educational programs may appoint only one authorized instructor per program. Once again, to allow for the unique nature of each tribe, NMFS determined the Ceremonial Permit coordinator appointment process should be established independently by each Alaska native tribe.

Appeals

NMFS proposes an appeals process to address denied applications for a CHP, Ceremonial Permit, Educational Permit, or subsistence halibut registration certificate. The suggested appeals process provides a distinct procedure for addressing grievances in an open administrative process. The RAM Program Office would be responsible for issuing an Initial Administrative Decision (IAD) providing the reason for the denial of a special permit or subsistence halibut registration that details deficiencies in the application or any additional provided information. An affected party may appeal an IAD denial to the NMFS Alaska Region Office of Administrative Appeals (OAA) in accordance with 50 CFR 679.43. The Council recommended that the CHP should be revoked if abused subject to appeal. However, the Halibut Act does not provide for permit sanctions and thus, regulations authorized under the Halibut Act cannot authorize permit sanctions. The proposed appeals process would be available to any subsistence halibut fisher seeking relief under 50 CFR part 300.

Restructuring of Regulations

The regulations governing the subsistence halibut fishery and implemented under the Halibut Act authority discussed above are codified at 50 CFR 300 Subpart E. The Council's recommended changes to these regulations would require significant redesignations as indicated in the following table.

<i>Current section and paragraph</i>	<i>Proposed new location</i>	<i>Would there be a change in the text?</i>
Section 300.65(c) Catch sharing plan and domestic management measures in waters in and off Alaska.	Removed	Existing paragraph (i) (Guideline Harvest Level) would be redesignated as paragraph (c). The Guideline Harvest Level text remains unchanged.
Section 300.66(h) Prohibitions.	Exceptions provided in Section 300.66(h) would be split into paragraphs (h)(1) and (h)(2).	Yes, a new paragraph (h)(2) would be added to reflect an additional exception.
Section 300.66(k) Prohibitions.	Section 300.66(l)	No, but a new paragraph (k) would be added.

To avoid confusion in the amendatory language of each instruction, the full text of each paragraph that would be moved along with proposed revisions is repeated in this proposed rule. No substantive changes are proposed in existing § 300.60–300.62 and 300.64. The only substantive change related to the proposed subsistence halibut action would occur in existing § 300.63 and 300.65–300.66. Although the Guideline Harvest Level provisions of § 300.65 would be redesignated, the substance of those regulations would not change.

NMFS proposes to remove the text of the introductory paragraph preceding paragraph (a) in § 300.63. This removal represents only an editorial change to eliminate repetition in the regulatory text. Removal of the introductory paragraph in § 300.63 in no way changes the rights and obligations imposed by the regulations on regulated parties.

Additionally, NMFS proposes to remove all language addressing the terms, conditions, or other specific details suggested for harvest assessment under the individual subsistence halibut registration certificate. Future subsistence halibut surveys would continue to be voluntary and removing the survey language allows more flexibility in the information collection process. NMFS deemed the increased flexibility of information collection necessary for proper management of halibut stocks.

Classification

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 10 minutes per response for each permit application and 30 minutes per response for each harvest log, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments

on these or any other aspects of the collection of information to NMFS, Alaska Region and to the Office of Information and Regulatory Affairs (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Council prepared a Regulatory Impact Review (RIR) to assess all costs and benefits of available regulatory alternatives. The Council considered all quantitative and qualitative measures and chose a preferred alternative based on those measures that maximize net benefits to affected communities and Alaska Native tribes under the Subsistence Halibut program.

The Council also prepared an Initial Regulatory Flexibility Analysis (IRFA) for this action that assesses potential impacts on small entities for purposes of the Regulatory Flexibility Act (RFA). Special permits proposed in this rule would impact small entities in the form of small government jurisdictions with fewer than 50,000 residents. Affected small government jurisdictions include 29 rural communities and 19 Alaska Native tribes in Area 2C and 14 rural communities and 19 tribes in Area 3A. The special permits represent the only aspect of the proposed rule that affects small entities. The remainder of the proposed rule bears exclusively on the non-commercial activities of “individuals,” which are subsequently excluded from the RFA.

The Council analyzed two alternatives in the IRFA for each special permit under this proposed rule including a no action alternative and the selected preferred alternative. Under the no action alternative, the status quo would be maintained and no special permits would issue to Alaska Native tribes or rural communities under the Subsistence Halibut program. The Council determined that the no action alternative failed to meet the goals of the Subsistence Halibut program to provide for improved safety at sea, recognition and accommodation of traditional Native customs and practices, facilitation of efficient acquisition of subsistence food, reductions in waste and discards, and promotion of halibut conservation. Alternatively, the Council determined that the preferred alternative implementing special permits would provide a means to meet

these goals by establishing a system that provides for better harvest assessment and stock monitoring while recognizing the unique character of the Alaska Native tribes and rural communities. The Council analyzed several options within the preferred alternative, including permit methods from analogous applications in other agencies such as special use permits provided by the Bureau of Indian Affairs (BIA) and the National Park Service (NPS). The Council did not select the options provided by the BIA and NPS regulations because those systems provided for more generic resource permitting systems that did not necessarily address subsistence issues. Ultimately, the Council selected a permit system modeled after the U.S. Fish and Wildlife Service’s subsistence permit programs because that permit system represented a proven system that corresponded well with the similar subsistence goals of the Subsistence Halibut program.

Since the preferred alternative creates a system that only benefits the affected entities by meeting the goals described above, it likely imposes no “adverse” impacts that require consideration under the RFA. Nonetheless, the Council prepared an IFRA to fulfill the requirements of the RFA, despite the high probability that the proposed rule will not have a substantial adverse effect on a substantial number of small entities as defined by the RFA. Copies of the RIR/IRFA for this proposed rule are available from NMFS. (see **ADDRESSES**).

Detailed information and empirical data about the entities likely subject to regulation by this proposed rule are not presently available for analysis supporting the preparation of a “factual basis” upon which to “certify,” under the RFA. However, because the preferred alternative creates a system that only benefits the affected entities by meeting the goals described above, it likely imposes no “adverse” impacts that require consideration under the RFA. Nonetheless, the Council prepared an IFRA to fulfill the requirements of the RFA, despite the high probability that the proposed rule will not have a substantial adverse effect on a substantial number of small entities as defined by the RFA. Copies of the RIR/IRFA for this proposed rule are available from NMFS (see **ADDRESSES**). According to NOAA Administrative Order (NAO) 216–6, including the criteria used to determine significance, this rule would not have a significant effect, individually or cumulatively, on the human environment beyond those effects identified in previous NEPA analysis. An environmental assessment

(EA) (dated January 2003) was prepared for the final rule implementing the original subsistence halibut regulations (68 FR 18145, April 15, 2003). The scope of the EA includes the potential environmental impacts of this proposed rule because the EA analyzed the original subsistence halibut policy, which included analysis of gear and harvest restrictions and their impacts on tribes and rural communities. Based on the nature of the proposed rule and the previous environmental analysis, this proposed rule is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement, in accordance with Section 5.05b of NAO 216–6. Copies of the EA for the original subsistence halibut policy and the categorical exclusion for this action are available from NMFS (see **ADDRESSES**).

List of Subjects

50 CFR Part 300

Fisheries, Pacific halibut.

50 CFR Part 679

Alaska, Determinations and appeals, Fisheries, Recordkeeping and reporting requirements.

Dated: July 1, 2004.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 300 and 679 are proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

SUBPART E—PACIFIC HALIBUT FISHERIES

1. The authority citation for 50 CFR part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k.

§ 300.63 [Amended]

2. In § 300.63, the introductory paragraph preceding paragraph (a) is removed.

3. In § 300.65, paragraph (c) is removed; paragraph (i) is redesignated as paragraph (c); paragraphs (d)(4) and (g) are revised; paragraph (h)(4) is removed; and new paragraphs (i) through (k) are added to read as follows:

§ 300.65 Catch sharing plan and domestic management measures in waters in and off of Alaska.

* * * * *

(c) Guideline harvest level (GHL). (1) The annual GHLs for regulatory areas 2C and 3A are determined as follows.

If the Annual Total Constant Exploitation Yield for Halibut in Area 2C is More Than:	Than the GHL for Area 2C will be:	If the Annual Total Constant Exploitation Yield for Halibut in Area 3A is More Than:	Than the GHL for Area 3A will be:
(i) 9,027,000 lbs. (4094.5 mt)	1,432,000 lbs. (649.5 mt)	21,581,000 lbs. (9,788.9 mt)	3,650,000 lbs. (1655.6 mt)
(ii) 7,965,000 lbs. (3612.9 mt)	1,217,000 lbs. (552.0 mt)	19,042,000 lbs. (8637.3 mt)	3,103,000 lbs. (1407.0 mt)
(iii) 6,903,000 lbs. (3,131.2 mt)	1,074,000 lbs. (496.7 mt)	16,504,000 lbs. (7,485.9 mt)	2,734,000 lbs. (1266.4 mt)
(iv) 5,841,000 lbs. (2,649.4 mt)	931,000 lbs. (447.2 mt)	13,964,000 lbs. (6334.0 mt)	2,373,000 lbs. (1,139.9 mt)
(v) 4,779,000 lbs. (2,167.7 mt)	788,000 lbs. (357.4 mt)	11,425,000 lbs. (5,182.3 mt)	2,008,000 lbs. (910.8 mt)

(2) NMFS will publish a notice in the **Federal Register** on an annual basis establishing the GHL for Area 2C and Area 3B for that calendar year within 30 days of receiving information from the Commission which establishes the constant exploitation yield for that year.

(3) If the GHL in either Area 2C or 3A is exceeded, NMFS will notify the Council in writing that the GHL has been exceeded within 30 days of receiving information that the GHL has been exceeded.

(d) * * *

* * * * *

(4) No charter vessel, as defined at 50 CFR 300.61, shall engage in sport fishing, as defined at 50 CFR 300.61, for halibut within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(i) No charter vessel shall retain halibut caught while engaged in sport fishing, as defined at 50 CFR 300.61, for other species, within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(ii) Notwithstanding paragraphs (d)(4) and (d)(4)(i) of this section, halibut harvested outside Sitka Sound, as defined in (d)(1)(ii) of this section, may

be retained onboard a charter vessel engaged in sport fishing, as defined in 50 CFR 300.61, for other species within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

* * * * *

(g) * * *

(1) * * *

(i) Subsistence fishing gear set or retrieved from a vessel must not have more than 30 hooks per person registered in accordance with paragraph (h) of this section and on board the vessel and shall never exceed 3 times the per-person hook limit except that:

(A) No hook limit applies in Areas 4C, 4D, and 4E.

(B) In Area 2C, subsistence fishing gear set or retrieved from a vessel must not have more than 30 hooks per vessel unless fishing under a CHP pursuant to paragraph (i) of this section.

(C) In Area 2C within the Sitka LAMP from June 1 to August 31, setline gear may not be used in a 4 nautical mile radius extending south from Low Island at 57°00'42" N. lat., and 135°36'34" W. long.

(ii) * * *

(iii) * * *

(2) The daily retention of subsistence halibut in rural areas is limited to no more than 20 fish per person on board the vessel that are eligible to conduct subsistence fishing for halibut under paragraph (g) of this section, except that:

(i) No daily retention limit applies in Areas 4C, 4D, and 4E.

(ii) No daily retention limit applies to persons fishing under a community harvest permit (CHP) pursuant to paragraph (i) of this section.

(iii) The total allowable harvest for persons fishing under a Ceremonial or Educational Permit pursuant to paragraph (j) of this section is 25 fish per permit.

(iv) In Area 2C the daily retention limit is 20 fish per vessel.

(3) * * *

(i) * * *

(ii) * * *

(iii) The Anchorage-Matsu-Kenai non-subsistence marine waters area in Commission Regulatory Area 3A (see Figure 4 to subpart E) is defined as: (1) all waters of Cook Inlet north of 59°30.40' N. lat., except those waters within mean lower low tide from a point one mile south of the southern edge of the Chuitna River (61°05.00' N.

lat., 151°01.00' W. long.) south to the easternmost tip of Granite Point (61°01.00' N. lat., 151°23.00' W. long.) (Tyonek subdistrict); and (2) all waters of Alaska south of 59°30.40' N. lat. on the western shore of Cook Inlet to Cape Douglas (58°10' N. lat.) and in the east to Cape Fairfield (148°50.25' W. long.), except those waters of Alaska west of a line from the westernmost point of Jakolof Bay (151°31.09' W. long.) and following the shore to a line extending south from the easternmost point of Rocky Bay (151°18.41' W. long.);

* * * * *

(i) Community Harvest Permit (CHP). An Area 2C community or Alaska Native tribe listed in paragraph (f)(1) or (f)(2) of this section may apply for a CHP, which allows a community or Alaska Native tribe to appoint one or more individuals from its respective community or Alaska Native tribe to harvest subsistence halibut from a single vessel under reduced gear and harvest restrictions. A CHP is a permit subject to regulation under 50 CFR 679.4(a).

(1) Qualifications. (i) NMFS may issue a CHP to any community or Alaska Native tribe that applies according to paragraph (i)(2) of this section and that is qualified to conduct subsistence fishing for halibut according to paragraph (f) of this section.

(ii) NMFS will issue a CHP to a community in Area 2C only if:

(A) The applying community is listed as eligible in Area 2C according to paragraph (f)(1) of this section.

(B) No Alaska Native tribe listed in paragraph (f)(2) exists in that community.

(iii) NMFS will issue a CHP to an Alaska Native tribe in Area 2C only if the applying tribe is listed as eligible in Area 2C according to paragraph (f)(2) of this section.

(iv) Eligible communities or Alaska Native tribes may appoint only one CHP Coordinator per community or tribe.

(2) Application. A community or Alaska Native tribe may apply for a CHP by submitting an application to the Alaska Region, NMFS. Applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, PO Box 21668, Juneau, AK 99802-1668. A complete application must include:

(i) the name of the community or Alaska Native tribe requesting the CHP;

(ii) The full name of the person who is designated as the CHP Coordinator for each community or Alaska Native tribe, the designated CHP Coordinator's mailing address (number and street, city and state, zip code), community of residence (the rural community or

residence from 50 CFR 300.65(f)(1)) or the Alaska Native tribe if applicable (as indicated in 50 CFR 300.65(f)(2)), and the daytime telephone number; and

(iii) Any previously issued CHP harvest logs.

(3) Restrictions. Subsistence fishing for halibut under a CHP shall be valid only:

(i) In Area 2C, except that a CHP may not be used:

(A) Within the Sitka LAMP defined in paragraph (d) of this section (see Figure 1 to subpart E)

(B) Within the Juneau and Ketchikan non-rural areas defined in paragraph (g) of this section (see Figures 2 and 3 of subpart E)

(ii) To persons in possession of a valid subsistence halibut registration certificate issued in accordance with paragraph (h) for the same community or Alaska Native tribe listed on the CHP.

(iii) On a single vessel on which the CHP is present.

(4) Expiration of permit. Each CHP will be valid only for the period of time specified on the permit. A CHP will expire one year from the date of issuance to a community or Alaska Native tribe eligible to harvest halibut under paragraph (f) of this section. A community or Alaska Native tribe eligible to harvest subsistence halibut under paragraph (f) of this section may renew its CHP that is expired or will expire within three months by following the procedures described in paragraph (i)(2) of this section.

(5) Duties of the CHP coordinator. Each CHP Coordinator must:

(i) Identify on the Community Harvest Permit harvest log the designated harvesters who may fish under the CHP when the CHP is issued to the designated harvester.

(ii) Maintain possession of the CHP when not in use and issue the CHP to designated harvesters when necessary.

(iii) Perform all required record keeping and data reporting of subsistence harvests under the CHP.

(6) Each Community Harvest Permit harvest log must be submitted to NMFS on or before the date of expiration by facsimile or mail. Harvest logs must be mailed to RAM at the address given in paragraph (i)(2) of this section or faxed to 907-586-7354. The log must provide information on:

(i) The subsistence fisher's identity including his or her full name, subsistence halibut registration certificate number, date of birth, mailing address (number and street, city and state, zip code), community of residence, daytime phone number, and tribal identity (if appropriate);

(ii) The subsistence halibut harvest including whether the participant fished for subsistence halibut during the period specified on the permit, and if so, the date harvest occurred, the number and weight (in pounds) of halibut harvested, the type of gear and number of hooks used, the Commission regulatory area and local water body from which the halibut were harvested, and the number of lingcod and rockfish caught while subsistence fishing for halibut.

(j) Ceremonial Permit or Educational Permit. An Area 2C or Area 3A Alaska Native tribe that is listed in paragraph (f)(2) of this section may apply for a Ceremonial or Educational Permit, allowing the tribe to harvest up to 25 halibut per permit issued. Ceremonial and Educational Permits are permits subject to regulation under 50 CFR 679.4(a).

(1) Qualifications. (i) NMFS may issue a Ceremonial or Educational Permit to any Alaska Native tribe that completes an application according to paragraph (j)(2) of this section and that is qualified to conduct subsistence fishing for halibut according to paragraph (f)(2) of this section.

(ii) Eligible Alaska Native tribes may appoint only one Ceremonial Permit Coordinator per tribe.

(iii) Eligible educational programs may appoint only one authorized Instructor per Educational Permit.

(2) Application. An Alaska Native tribe may apply for a Ceremonial or Educational Permit by submitting an application to the Alaska Region, NMFS. Applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, PO Box 21668, Juneau, AK 99802-1668.

(i) A complete application must include:

(A) The name of the Alaska Native tribe requesting the Ceremonial or Educational Permit.

(B) The name of the person designated as the Ceremonial Permit Coordinator for each Alaska Native tribe or the name of the person designated as the Instructor for an Educational Permit, the Ceremonial Permit Coordinator or Instructor's mailing address (number and street, city and state, zip code), and the daytime telephone number.

(C) Any previously issued Ceremonial Permit harvest logs from any expired Ceremonial Permit if applying for a Ceremonial Permit.

(D) Any previously issued Educational Permit harvest logs from any expired Educational Permit if applying for a Educational Permit.

(ii) NMFS will issue a Ceremonial Permit for the harvest of halibut

associated with traditional cultural events only if the application:

(A) Indicates the occasion of cultural or ceremonial significance.

(B) Identifies the person designated by the eligible Alaska Native tribe as the Ceremonial Permit Coordinator.

(iii) NMFS will issue an Educational Permit only if the application:

(A) Includes the name and address of the educational institution or organization.

(B) Includes the instructor's name.

(C) Demonstrates the enrollment of qualified students.

(D) Describes minimum attendance requirements of the educational program.

(E) Describes standards for the successful completion of the educational program.

(3) Restrictions. Subsistence fishing for halibut under Ceremonial or Educational Permits shall be valid only:

(i) In Area 3A, except in the Anchorage-Matsu-Kenai and Valdez non-rural areas defined in paragraph (g) of this section (see Figures 4 and 5 of subpart E)

(ii) In Area 2C, except in the Juneau and Ketchikan non-rural areas defined in paragraph (g) of this section (see Figures 2 and 3 of subpart E) and a Ceremonial Permit may not be used within the Sitka LAMP from June 1 through August 31.

(iii) On a single vessel on which the Ceremonial or Educational Permit is present.

(iv) On the vessel on which the instructor is present for Educational Permits.

(v) To persons in possession of a valid subsistence halibut registration certificate issued in accordance with paragraph (h) for the same Alaska Native tribe listed on the Ceremonial Permit, except that students enrolled in an educational program may fish under an Educational Permit without a subsistence halibut registration certificate.

(4) Expiration of permits. Each Ceremonial or Educational Permit will be valid only for the period of time specified on the permit. Ceremonial and Educational Permits will expire 30 days from the date of issuance to an Alaska Native tribe eligible to harvest halibut under paragraph (f)(2) of this section. A tribe eligible to harvest subsistence halibut under paragraph (f)(2) of this section may apply for additional Ceremonial or Educational Permits at any time.

(5) Duties of Ceremonial Permit Coordinators and Instructors. Each Ceremonial Permit Coordinator or Instructor must:

(i) Identify on the Ceremonial/Educational Permit harvest log the designated harvesters or students who may fish under the Ceremonial or Educational Permit when the permit is used.

(ii) Maintain possession of the Ceremonial Permit when not in use and issue the Ceremonial Permit to designated harvesters when necessary.

(iii) Perform all required recordkeeping and data reporting of subsistence harvests under the Ceremonial or Educational Permit.

(6) Submission of a Ceremonial or Educational Permit log shall be required upon the expiration of each permit and must be received by Restricted Access Management within 15 days of the expiration by facsimile or mail. Harvest logs must be mailed to RAM at the address given in paragraph (j)(2) of this section or faxed to 907-586-7354. The log must provide information on:

(i) The subsistence fisher's identity including his or her full name, subsistence halibut registration certificate number if applicable (students do not need a SHARC), date of birth, mailing address (number and street, city and state, zip code), community of residence, daytime phone number, and tribal identity.

(ii) The subsistence halibut harvest including whether the participant fished for subsistence halibut during the period indicated on the permit, and if so, the date when harvest occurred, the number and weight (in pounds) of halibut harvested, the type of gear and number of hooks used, the Commission regulatory area and local water body from which the halibut were harvested, and the number of lingcod and rockfish caught while subsistence fishing for halibut.

(k) *Appeals.* If Restricted Access Management (RAM) determines that an application is deficient, it will prepare and send an Initial Administrative Determination (IAD) to the applicant. The IAD will indicate the deficiencies in the application or any additional provided information. An applicant who receives an IAD may appeal RAM's findings pursuant to 50 CFR 679.43.

4. In § 300.66, paragraphs (e) and (h) are revised; paragraph (k) is redesignated as paragraph (l), and a new paragraph (k) is added to read as follows:

§ 300.66 Prohibitions.

* * * * *

(e) Fish for subsistence halibut in and off Alaska unless the person is qualified to do so under 50 CFR 300.65(f), possesses a valid subsistence halibut registration certificate pursuant to 50

CFR 300.65(h), and makes this certificate available for inspection by an authorized officer on request, except that students enrolled in a valid educational program and fishing under an Educational Permit issued pursuant to 50 CFR 300.65(j) do not need a subsistence halibut registration certificate.

* * * * *

(h) Retain on board the harvesting vessel halibut harvested while subsistence fishing with halibut harvested while commercial fishing or from sport fishing, as defined at 50 CFR 300.61(b), except that persons authorized to conduct subsistence fishing under 50 CFR 300.65(f), and who land their total annual harvest of halibut:

(1) In Commission regulatory Areas 4D or 4E may retain, with harvests of Community Development Quota (CDQ) halibut, subsistence halibut harvested in Commission regulatory areas 4D or 4E that are smaller than the size limit specified in the annual management measures published pursuant to 50 CFR 300.62; or

(2) In Commission regulatory Areas 4C, 4D or 4E may retain, with harvests of CDQ halibut, subsistence halibut harvested in Commission regulatory areas 4C, 4D or 4E that are equal to or greater than the size limit specified in the annual management measures published pursuant to 50 CFR 300.62.

* * * * *

(k) Retain subsistence halibut harvested under a CHP, Ceremonial Permit, or Educational Permit together in any combination or with halibut harvested under any other license or permit.

(l) Fillet, mutilate, or otherwise disfigure subsistence halibut in any manner that prevents the determination of the number of fish caught, possessed, or landed.

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; and 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209 Pub. L. 106-554.

2. In § 679.4, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 679.4 Permits.

(a) * * *

(1) *What permits are available?*

Various types of permits are issued for programs codified at 50 CFR parts 300

and 679. These permits are listed in the following table. The date of effectiveness for each permit is given along with certain reference paragraphs for further information.

<i>If program permit or card type is:</i>	<i>Permit is in effect from issue date through end of:</i>	<i>For more information, see...</i>
* * * * *		
(xi) Special Subsistence Permits		
(A) Community Harvest Permit	1 year	§ 300.65 of this Title
(B) Ceremonial or Educational Permit	30 days	§ 300.65 of this Title

(2) *Permit and logbook required by participant and fishery.* For the various types of permits issued, refer to § 679.5 for recordkeeping and reporting requirements. For subsistence permits, refer to § 300.65 of this chapter for recordkeeping and reporting requirements.

* * * * *

3. In § 679.43, paragraph (a) is revised to read as follows:

§ 679.43 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made

under this part 679 and part 300, subpart E of this title.

* * * * *

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